THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

W.P.No.28278 of 1996

Date:17.02.2006

Between:

K.Hari Gopal and others

--------PETITIONERS

AND

The District Collector and others

---------RESPONDENTS

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ORDER:

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The petitioners are residents of various villages of East Godavari District, which abut the river Godavari. They filed this writ petition alleging that respondents 5 to 10 are manufacturing bricks by removing the clay from the riverbed. They state that apart from being contrary to various enactments, the activity of respondents 5 to 10 is resulting in erosion and change of course of flow of river causing damages to the neighbouring villages.

The official as well as non-official respondents have filed separate counter-affidavits.

Respondents 5 to 10 pleaded that they are using the clay from their own patta lands and that they never removed any clay from the riverbed.

On behalf of respondents 1 and 2, it is pleaded that no one can remove the clay even from a patta land in such a way as to change the course of flow of river.

Heard the learned counsel for the petitioners, learned Government Pleader for Irrigation and learned counsel for respondents 5 to 10.

Initially, this Court passed an interim order and later, modified the same. It became the subject matter of a writ appeal. Various developments, including the one of filing a suit and verification by various authorities, were referred to.

The petitioners did not claim any right of their own in the lands, from which the clay is being removed for manufacture of bricks. Their allegation was that respondents 5 to 10 are removing the clay from the riverbed. However, from the counter-affidavit filed by respondents 5 to 10, it emerges that they are using the clay from their own patta lands. Except making a reference to the A.P. Miner Mineral Concession Rules, 1960, the petitioners are not able to draw the attention of this Court to any provision, which prohibits the use of clay from a patta land for manufacture of bricks. This Court does not intend to express any opinion as to whether the clay used in manufacture of bricks, is to be treated as a minor mineral or whether any lease is necessary for undertaking such activity.

The River Regulatory Authority is vested with the power to take necessary steps, in case the owners of the lands on the bank of any river within their jurisdiction, have undertaken any step causing any detriment to the flow or other aspects of the river. The petitioners can, certainly, prosecute the remedies, in case any activity, which is within the purview of the River Regulatory Authority, is being undertaken by respondents 5 to 10 or any other individual.

Therefore, the writ petition is disposed of, leaving it open to the petitioners to approach the River Regulatory Authority complaining the acts or omissions on the part of the owners of the land on the bank of river Godavari. On receiving such representations, the authorities concerned shall take appropriate action within the framework of law, duly issuing notices to the affected parties. There shall be no order as to costs.

17.02.2006

kdl